

*ODFW Habitat Mitigation Policy
and Energy Facility Siting*

Mitigation Policy Purpose

- Provides ODFW staff with a framework for reviewing development actions so that habitats with similar relative importance to fish and wildlife are categorized more consistently
- Establishes consistent goals and standards to mitigate impacts of development on fish and wildlife habitat

Mitigation Policy

- Defines “Mitigation”
- Establishes Habitat Categories
- Establishes “Mitigation Goals and Standards” for Each Habitat Category

The Mitigation Policy

- Does not include habitat mapping
- Provides a framework, not a quantitative formula for assigning habitat categories
- Best professional judgment is still required

Definition of Mitigation

"Mitigation" means taking one or more of the following actions listed in order of priority:

- Avoid the impact
- Minimize the impact
- Repair, rehabilitate or restore the affected area
- Replace or provide comparable habitats

Habitat Categories

Key Definitions

- Essential habitat
- Limited habitat
- Important habitat
- Irreplaceable habitat
- Habitat with High Restoration Potential

Essential Habitat

- Any habitat condition or set of habitat conditions which, if diminished in quality or quantity, would result in depletion of a fish or wildlife species.
 - These habitats contain the physical and biological conditions necessary to support the most critical life history functions of the fish and wildlife species of concern.
 - Examples: Spawning areas, nesting sites

Critical life history functions: Breeding, rearing, spawning

Limited Habitat

- An amount insufficient or barely sufficient to sustain fish and wildlife populations over time.
 - Requires consideration of the relative availability of suitable habitats to support important life history functions.

Limited:

If this habitat is diminished, could start to see an impact on populations (but we rarely have adequate information on populations)

Important Habitat

- Any habitat recognized as a contributor to sustaining fish and wildlife populations over time.
 - Habitats that contribute to sustaining fish and wildlife populations over time, but that may not be necessary to support the most critical life history functions of the species being considered.

Irreplaceable Habitat

- "Irreplaceable" means that successful in-kind habitat mitigation to replace lost habitat quantity and/or quality is not feasible within an acceptable period of time or location, or involves an unacceptable level of risk or uncertainty
 - "Acceptable" means in a reasonable time frame to benefit the affected fish and wildlife species.

Examples: Old growth forests, bogs, mature oak woodlands

Feasibility, timing and risk need to be considered when determining if a habitat is irreplaceable.

High Restoration Potential

- Previous uses or activities that have reduced habitat values need to have been eliminated or severely reduced
 - It must also be technically and economically feasible to restore the habitat
- Example: Diked tidal marsh

If rye grass field in the Willamette Valley, planned, zoned as Exclusive Farm Use, not feasible to restore

Habitat Categories

| Habitat Category | Habitat Included |
|-------------------------|--|
| Category 1 | Irreplaceable, essential and limited habitat |
| Category 2 | Essential and limited habitat |
| Category 3 | Essential habitat, or important and limited habitat |
| Category 4 | Important habitat |
| Category 5 | Habitat having high potential to become either essential or important habitat |
| Category 6 | Habitat that has low potential to become essential or important habitat |

Category 1 – Habitat containing active Washington ground squirrel burrows; old growth forest

Category 2 – Columbia Basin shrub-steppe habitat, high quality (mostly native), large patch size; Columbia Basin grassland-steppe, high quality, large patch size.

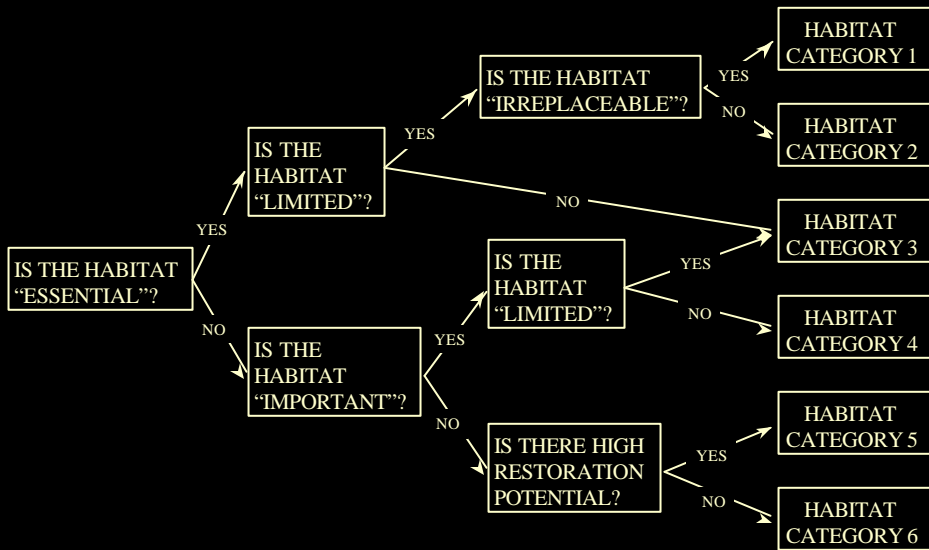
Category 3 – Juniper grasslands, native grass dominated (important and limited)

Category 4 – Columbia basin shrub-steppe, severely grazed/weedy; Columbia basin grassland-steppe, severely grazed/weedy (important but not limited)

Category 5 – Diked tidal marshes

Category 6- Developed areas

Habitat Classification System



Habitat Goals and Standards

Key Definitions

- In-Kind Habitat Mitigation
- Out of Kind Habitat Mitigation
- In-Proximity Habitat Mitigation
- Off Proximity Habitat Mitigation

In-Kind Habitat Mitigation

Habitat mitigation measures that recreate similar habitat structure and function to that existing prior to the development action.

Out-of Kind Habitat Mitigation

Habitat mitigation measures that result in different habitat structure and function.

In-Proximity Habitat Mitigation

Habitat mitigation measures undertaken within or in proximity to areas affected by a development action.

“In proximity to” means within the same home range or watershed as the species or population being impacted.

Off-Proximity Habitat Mitigation

Habitat mitigation measures undertaken outside of the home range or watershed of the impacted species or populations.

Mitigation Goals and Standards

| Habitat Category | Mitigation Goal | Achieved By |
|------------------|---|--|
| Category 1 | No loss of habitat quantity or quality | Avoidance |
| Category 2 | No net loss of habitat quantity or quality <u>and</u> to provide a net benefit of habitat quantity or quality | In-kind, in -proximity mitigation |
| Category 3 | No net loss of habitat quantity or quality | In-kind, in -proximity mitigation |
| Category 4 | No net loss of habitat quantity or quality | In-kind or out -of-kind, in -proximity or off-proximity mitigation |
| Category 5 | Net benefit in habitat quantity or quality | Actions that improve habitat conditions |
| Category 6 | Minimize impacts | |

- The net benefit goal recognizes that Category 5 habitats are generally in a “degraded” state but have high restoration potential. As such, fish and wildlife species would not benefit much from mitigation designed to achieve a “no net loss” standard (as is applied to Category 4 habitats). The intent is to encourage mitigation that takes advantage of the high restoration potential of these sites so that mitigation actions contribute to improving habitat conditions.
- There may be many different ways to achieve the mitigation goal.

Mitigation Policy and the Oregon EFSC Process

EFSC facility siting administrative rules contain a “Fish and Wildlife Habitat Standard”(OAR 635-415-0025).

This standard requires EFSC to make a finding that the design, construction, operation and retirement of the facility is consistent with the fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025.

EFSC “Balancing Test”

- Allows EFSC to issue or amend a site certificate for a facility that does not meet EFSC siting standards
- Balancing test can be applied to all EFSC siting standards, including the Fish and Wildlife Standard
- Allows EFSC to determine that “the overall public benefits of the facility outweigh the damage to the resources protected by the standards the facility does not meet.” (OAR 345-022-0000)

(OAR 345-022-0000)

How the Mitigation Policy is applied in the EFSC Process

- ODFW identifies “species of concern”
 - Native species most likely to be impacted by the proposed project
 - Species of concern always include the most vulnerable species (T, E, and State Sensitive Species)

Species of concern identified at the beginning of the site certificate application process

Species of concern drive the habitat categorization process

Identification of species of concern narrows the biological information a developer has to provide

How the Mitigation Policy is applied in the EFSC Process

- Developer's consultants collect information necessary to characterize habitats
- Developer's consultants assign habitat categories and propose mitigation
- Material sent to OOE staff and ODFW staff for review (ideally in draft)

Identify vegetation types, delineate wetlands, streams, other significant habitat features like rock cliffs, rock outcrops

Surveys for species of concern (if necessary)

ODFW provides guidance on survey methodologies

ODFW participates in site visits on request

Existing information used, new information gathered

How the Mitigation Policy is applied in the EFSC Process

- OOE and ODFW review and confer on habitat categories and proposed mitigation
- OOE and ODFW provide consistent comments to applicant
- OOE and ODFW work with applicant to resolve conflicts over habitat categories and reach agreement on acceptable mitigation